

IN RE WACHOVIA CORPORATION )  
ERISA LITIGATION )

**THIS DOCUMENT RELATES TO:  
ALL ACTIONS**

**THIS MATTER** is before the Court on the Defendants' Unopposed Motion to Approve Corrective Action of a Settlement Administration Error [Doc. 181].

The Defendants move the Court for approval to rectify a recently discovered inadvertent error in the administration of the Settlement of this matter. Pursuant to Section 12.1 of the parties' Settlement Agreement, the Court retained jurisdiction over the parties to resolve issues concerning the administration of the Settlement Agreement. [See Doc. 154-2].

The Plaintiffs in this action asserted claims for breaches of fiduciary duty under the Employee Retirement Income Security Act of 1974, as

amended, 29 U.S.C. § 1001, *et seq.* The Plaintiffs alleged, *inter alia*, that the Wachovia Savings Plan and A.G. Edwards, Inc. Retirement and Profit Sharing Plan fiduciaries failed to prudently and loyally manage the Plans' investment in Wachovia stock. The Defendants included, among others, Wachovia Corporation and thirty individual defendants.

On October 24, 2011, this Court issued a Final Order approving the class action settlement of this Action. [See Doc. 175]. The Final Order was amended on November 3, 2011 to correct an inconsistency between the Final Order and Plan of Allocation. [See Doc. 179].

As part of the Settlement, a Qualified Settlement Fund was established consisting of \$12.35 million in cash consideration paid by the Defendants. The Settlement Class consisted of all persons other than the Defendants who were participants in or beneficiaries of the Wachovia Savings Plan at any time between May 8, 2006 and December 31, 2008 and whose Plan account included units of investments in Wachovia Corporation common stock and/or participants in or beneficiaries of the A.G. Edwards, Inc. Retirement and Profit Sharing Plan at any time between October 1, 2007 and December 31, 2008 and whose Plan account included units of investment in Wachovia Corporation common stock. The number of class members was approximately 160,000.

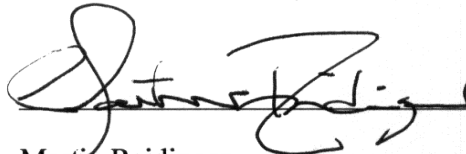
Wells Fargo & Company, the successor to Wachovia Corporation, recently discovered an error made in the administration and distribution of the Settlement Amount: namely, that the thirty individual defendants received a distribution from the Qualified Settlement Fund contrary to the terms of the Settlement Agreement. In total, \$10,500.58 was erroneously distributed to the thirty individual defendants, i.e., on average approximately \$350 per person.

Counsel for the parties have met and conferred as to the potential remedies to cure the settlement administration error. Given the de minimus amount involved and because it is not economical or efficient to distribute the amount to the Settlement Class according to the Plan of Allocation, the Defendants propose, and Class Counsel does not oppose, that Wells Fargo & Company make a donation payable to the North Carolina Interest on Lawyers Account with the funds to be split between the North Carolina State Bar and the Indigent Person's Attorneys Fund as directed by N.C. Gen. Stat. § 1-267.10. See McDaniels v. Westlake Services, LLC, No. ELH-11-1837, 2014 WL 556288, at \*10-11 (D. Md. Feb. 7, 2014) (approving legal aid organization as the cy pres recipient in connection with class action settlement).

**IT IS, THEREFORE, ORDERED** that the Defendants' Unopposed Motion to Approve Corrective Action of a Settlement Administration Error [Doc. 181] is **GRANTED**, and Wells Fargo & Company shall make a donation of \$10,500.58, payable to the North Carolina Interest on Lawyers Account with the funds to be split between the North Carolina State Bar and the Indigent Person's Attorneys Fund as directed by N.C. Gen. Stat. § 1-267.10.

**IT IS SO ORDERED.**

Signed: May 6, 2015

  
Martin Reidinger  
United States District Judge

